



County of Los Angeles  
**CHIEF ADMINISTRATIVE OFFICE**

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DAVID E. JANSSEN  
Chief Administrative Officer

Board of Supervisors  
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First District

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Second District

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Fifth District

September 23, 2003

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**PURCHASE OF REAL PROPERTY FOR FIRE STATION 72  
1838 DECKER ROAD, UNINCORPORATED MALIBU  
(THIRD) (3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY  
OF THE CONSOLIDATED FIRE PROTECTION DISTRICT:**

1. Approve the acquisition of real property located at 1838 Decker Road, unincorporated Malibu, consisting of vacant land totaling 24,586 square feet (the "Subject Property") for a purchase price of \$85,000.
2. Approve the Purchase and Sale Agreement, (Attachment 1), by and between the Consolidated Fire Protection District of Los Angeles County (the "District") and Ms. Nina Bomar (the "Seller") confirming the obligations of each party for the sale of the Subject Property.
3. Authorize the Chief Administrative Office (CAO) to open escrow for the Subject Property and to execute escrow instructions and any other related documentation necessary to complete the transaction.
4. Approve the grant of an easement over the Subject Property for the benefit of Seller for the purposes of ingress and egress and such other purposes as outlined in the Easement Deed (Attachment 2) and instruct the Chair to approve and execute the Easement Deed.

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5. Authorize the Auditor-Controller to issue warrants to cover the purchase price for the Subject Property of \$85,000 and any other required transactional costs related to the closing, which are estimated not to exceed \$5,000.
6. Authorize the CAO to accept the Deed conveying title to the District.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of the recommended action is to acquire the fee title to the Subject Property for the sum of \$85,000 in order to construct a septic system thereon that will facilitate the completion of construction of Fire Station 72, which is located adjacent to the Subject Property.

The construction of the replacement Fire Station 72 has been delayed, in part due to the necessity to alter the design of the septic system. The redesign of the septic system was complicated by the lack of municipal sewer services in the area and the quality of the soil contained on the District property which was not suitable for septic purposes.

The selected septic system design required the use of the Subject Property, which is located adjacent to the fire station, for the purpose of constructing a leach field. Because the District did not need the surface rights to construct the leach field, it was determined that an easement which would allow the construction and continued maintenance of a leach field was the most cost effective approach to gain use of the Subject Property.

Based upon an appraisal prepared by Department of Public Works, the District offered the Subject Property owner \$32,200 for the easement rights. However, the owner, convinced that the easement value was considerably higher than the District's appraised value, would not consent to the granting of the requested easement. As a result, on January 4, 2003, your Board considered and adopted a recommendation to acquire the easement by eminent domain. In accordance with that plan of action, County Counsel, on behalf of the District, initiated condemnation proceedings.

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The Subject Property owner responded by contesting the District's action on the basis that the District's offer of compensation was inadequate. The owner was relying on the advice of their appraiser who determined the easement rights had a value of \$220,000. Though the District disputes the Subject Property owner's appraisal methodology, it recognizes that the owner has the option to continue to resist the District's action through the Courts, and as a result the District could incur the significant costs associated with prolonged litigation. Therefore, the CAO and County Counsel, in negotiation with the Seller, have determined that an outright purchase of the Subject Property, in lieu of the originally proposed easement, could satisfy the District's needs and provide the opportunity for the County to gain the more valuable property rights associated with land ownership as opposed to the limited rights associated with an easement.

These negotiations culminated in the parties' agreement of a sales price of \$85,000 for the fee title. This price reflects the higher value attributable to the fee title as compared to the value typically equated with an easement.

Your Board's approval of this transaction will enable the District to acquire the necessary property by negotiated purchase instead of by condemnation and will enable County Counsel to dismiss the eminent domain action. Furthermore, approval of this transaction will resolve the septic system issues, thus clearing one of the hurdles to completing the fire station and allowing the project to proceed.

#### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The acquisition of real property to provide for the installation of a needed septic system is consistent with the County of Los Angeles Strategic Plan Goal of Investing in Public Infrastructure (Goal 4, Strategy 2).

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### **FISCAL IMPACT/FINANCING**

The value of the acquisition has been negotiated to be \$85,000, in addition the District can expect to incur reasonable closing costs which are estimated not to exceed \$5,000. The funds previously deposited with the Court to initiate the condemnation action will be refunded in full to the District and the District will directly issue payment of the purchase price and closing costs.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The purchase of the Subject Property is authorized by the Health and Safety Code Section 13861(b), which allows the District to acquire any property for its benefit.

The proposed facility is not served by a public sewer and engineers retained by the District have determined that the existing soils on the District-owned parcel will not adequately percolate the treated effluent that will be produced by the ongoing operation of the proposed fire station. The proposed septic system design mitigates this problem by locating the leach field on the Subject Property, which has suitable soil conditions.

Seller, by execution of the Purchase and Sale Agreement, acknowledges that this is a negotiated settlement in lieu of eminent domain action and that your Board's approval of the Agreement will result in the dismissal of the eminent domain action promptly after the closing. Furthermore, this settlement is intended to resolve and encompass all claims and/or entitlements of Seller for compensation and/or damages in connection with the District's acquisition of the Subject Property and construction and use of the public project for which the Subject Property is being acquired and is inclusive of all claims for compensation asserted by the Seller, including compensation for the fair market value of the portion of the parcel being acquired, statutory interest, and costs.

The District's acquisition represents a portion of a five-acre site which the Seller intends to use for the purposes of constructing a home. However, the Subject Property is required by the Seller in order to access the home site; as a result the District will grant an easement in favor of the Seller for the purposes of vehicle access and utility installation.

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As a condition to the sale of the Subject Property, the Seller required a reversionary right providing that in the event the Subject Property was no longer required for septic system purposes, the Seller would be allowed the right to purchase the Subject Property for its then fair market value.

County Counsel has approved the Purchase and Sale Agreement as to form.

#### **ENVIRONMENTAL DOCUMENTATION**

The recommendations adopted by your Board on January 14, 2003 included a Mitigation Monitoring and Reporting Program and a finding of no adverse impact on fish and wildlife resources. A Notice of Determination and Certificate of Fee Exception were completed and timely filed. Inasmuch as the acquisition of the Subject Property in the manner proposed conforms to the scope anticipated in the prior environmental findings, no further environmental review is required.

#### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

It is the finding of the CAO that the proposed acquisition is in the best interest of the District and upon completion of Fire Station 72, will beneficially impact the emergency services provided to the unincorporated areas near Malibu and the City of Malibu.

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**CONCLUSION**

It is requested that the Executive Officer, Board of Supervisors, return an executed Purchase and Sale Agreement, executed Easement Deed, two certified copies of the Minute Order, and the adopted, stamped Board letter to the CAO Real Estate Division at 222 South Hill Street, 3rd Floor, Los Angeles, CA 90012 for further processing.

Respectfully submitted,

DAVID E. JANSSEN  
Chief Administrative Officer

DEJ:CWW  
CB:CK:cc

Attachments (2)

c: Auditor-Controller  
Assessor  
County Counsel  
Fire Department

1838Purchase.b

## **AGREEMENT OF PURCHASE AND SALE**

THIS AGREEMENT OF PURCHASE AND SALE ("Agreement"), dated for reference purposes only as of \_\_\_\_\_, 2003, is entered into by and between NINA BOMAR ("Seller") and the CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY, a special district ("Buyer").

### RECITALS

- A. Seller is the owner of that certain real property located at 1838 Decker Road, unincorporated Malibu, in the County of Los Angeles, State of California, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").
- B. The Property consists of a 0.567 acre portion of a 4.81 acre lot identified as Assessor's Parcel Number 4472-011-003 fronting on the north side of Decker Road and currently vacant.
- C. Buyer desires to purchase the Property from Seller, and Seller is willing to sell the property to Buyer on the terms and conditions set forth in this Agreement.

### AGREEMENT

The terms and conditions of this Agreement are as follows:

- 1. Purchase and Sale. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property upon the terms and conditions herein set forth.
- 2. Purchase Price. The "Purchase Price" for the Property shall be Eighty Five Thousand Dollars and 00/100 (\$85,000).
- 3. Payment of Purchase Price. Buyer shall pay the Purchase Price for the Property by delivering such Purchase Price into Escrow prior to the "Closing" (as defined in Section 9), and as provided for in this Agreement, the Purchase Price shall be disbursed to Seller by County warrant, made payable to Seller, in an amount equal to the Purchase Price.
- 4. Form of Grant Deed. Fee simple absolute title to the Property shall be conveyed by Seller to Buyer as described in and by grant deed in the form attached hereto as Exhibit "B" ("Grant Deed"), duly executed and acknowledged by Seller, subject to a) those matters of record approved in writing by the Buyer pursuant to paragraph 6, below b) an exclusive 20 foot easement (5 feet up slope, 15 feet down slope) along a centerline that follows the existing driveway in favor of the Seller in the form attached hereto as Exhibit "C"; and c) conditions set forth in Section 34, Deed Restrictions.

5. Contingencies. Completion of the transaction contemplated by this Agreement is contingent upon:
- 5.01 Approval of Purchase and Sale. The Buyer's Board of Supervisors approving the purchase and sale of the Property.
- 5.02 Condition of Title to Transfer Property. Seller shall cause the conveyance of good and marketable fee absolute title to the Property to the Buyer as evidenced by an California Land Title Association standard policy of title insurance ("Title Policy") in an amount equal to the value of the Purchase Price. Within five (5) days of the date of Buyers execution of this Agreement, Seller, at its sole cost and expense, will retain a State of California licensed title company of Seller's choice to prepare a preliminary title report in accordance with CLTA standards. The Title Policy shall show as exceptions only matters approved in writing by the Buyer. If any exception is disapproved or deemed disapproved, Seller shall use its best efforts to cause each disapproved exception to be discharged, satisfied, released or terminated, as the case may be, of record, and in a form that is reasonably satisfactory to Buyer, at Seller's sole cost and expense, within thirty (30) days of Buyer's disapproval. If an exception cannot be discharged, satisfied, released or terminated, as the case may be, of record, said exception may be eliminated by any feasible method that is mutually acceptable to Buyer and Seller, including but not limited to, special endorsement, bond, indemnification, etc., at Seller's sole cost and expense. If within thirty (30) days of Buyer's disapproval, Seller is unable to obtain a discharge, satisfaction, release, or termination, and is unable to otherwise eliminate any disapproved exceptions for any reason, Buyer, as its sole and exclusive remedy, may (i) waive this condition and proceed with this transaction, or (ii) terminate this Agreement and neither party shall have any further liability to the other except as expressly provided for in this Agreement.
- 5.03 Seller's Disclosures. Seller shall disclose to Buyer any matters required by applicable law and provide Buyer with a completed Condition of Property Statement concerning the Property, each duly executed by or on behalf of Seller, in the current forms provided to Seller by Buyer within ten (10) business days of the execution of this Agreement by both parties. Buyer shall approve or disapprove of the matters disclosed within ten (10) business days thereafter. Disapproval of any matter disclosed shall be deemed a non-satisfaction of this Contingency for the purposes of Section 6, below.



6. Non-Satisfaction of Contingencies. Upon non-satisfaction of any one of the above Contingencies, Buyer may either allow Seller a thirty (30) day opportunity to cure or terminate the transaction by notice to Seller of such termination. By mutual written agreement the parties may extend the period within which Seller is required to cure a non-satisfaction. If the Agreement is terminated as set forth herein, neither of the parties thereafter shall have any liability to the other except as expressly provided for in this Agreement.

7. Escrow.

7.01 Within ten (10) days after the execution of this Agreement by all parties, the parties shall open an escrow (the "Escrow") with an Escrow Company of Seller's choosing (the "Escrow Holder"), provided Seller has first presented Buyer with a schedule of all expenses to be charged by the Escrow Company and Buyer has agreed that the charges are reasonable. Escrow shall be deemed open on the date that a fully executed copy of this Agreement is delivered to the Escrow Company. Seller's failure to provide Buyer with a schedule of fees charged by Escrow Company prior to the opening of Escrow, shall result in Seller being responsible for all costs associated with the Escrow Company. The parties shall execute and deliver to Escrow Holder, within five (5) business days of receipt, such escrow instructions prepared by Escrow Holder as may be required to consummate the transaction contemplated by this Agreement. Any such instructions shall not conflict with, amend, or supersede any provisions of this Agreement. If there is any inconsistency between such instructions and this Agreement, this Agreement shall control unless the parties expressly agree, in writing, otherwise.

7.02 Escrow Holder is authorized to:

7.02.01 Pay, and charge Seller, for any delinquent taxes, and penalties and interest thereon, and for any delinquent or non-delinquent assessments or bonds against the Property, except those which title is to be taken subject to and in accordance with the terms of this Agreement;

7.02.02 Pay, and charge Seller, for any amounts necessary to place the title in the condition necessary to enable conveyance pursuant to this Agreement; including title insurance, documentary transfer tax, one-half (1/2) of the escrow fees and recording fees;

7.02.03 Pay, and charge Buyer, for one-half (1/2) of the escrow fees;

- 7.02.04 Prorate all real property taxes, if any, which are a lien and/or unpaid as of the close of Escrow according to the formula adopted by the Los Angeles County Assessor's Office and deduct Seller's portion from Seller's proceeds. The tax amount withheld will be made payable to the County Auditor-Controller's Office following the Closing. Any taxes which have been prepaid by Seller shall not be prorated, but Seller shall have the sole right, after Closing, to apply to the Los Angeles County Treasurer for refund of the taxes attributable to the period after acquisition pursuant to the Revenue and Taxation Code Section 5096.7;
- 7.02.05 Any fees imposed by any municipal entity having jurisdiction in connection with the subdivision of the Property shall be the Buyer's sole responsibility.
- 7.02.06 When conditions of Escrow have been fulfilled by Buyer and Seller: (1) record documents of conveyance; (2) disburse the Purchase Price to Seller, less prorations and Seller's expenses; (3) deliver to Buyer and Seller copies of the Escrow closing statements; and (4) deliver to Buyer and Seller any items or documents given to Escrow Holder to hold for Buyer and/or Seller.

8. Conditions to Closing.

- 8.01 Buyer's obligation to consummate the transaction contemplated by this Agreement is conditioned upon: (i) Satisfaction of the Contingencies contained in Section 5; (ii) Seller's delivery of the Grant Deed to Escrow Holder; (iii) Seller's representations, warranties and covenants shall be true and correct as of Closing; and (iv) Title Company's irrevocable commitment to issue the Title Policy. Upon non-satisfaction of any one of the above conditions, Buyer may either allow Seller an opportunity to cure or terminate the transaction by notice to Seller of such termination. If this transaction is terminated as set forth herein, neither of the parties thereafter shall have any liability to the other except as expressly provided for in this Agreement. If Buyer does not object to Seller's non-satisfaction of said conditions, they shall be deemed satisfied as of the Closing.

- 8.02 Seller's obligation to consummate the transaction contemplated by this Agreement is conditioned upon: (i) the Board of Supervisors approving the purchase of the Property; and (ii) Buyer's deposit of the Purchase Price into Escrow no later than fifteen (15) business days after approval of the purchase and sale by the Board of Supervisors. After non-satisfaction by Buyer of one of the above conditions Seller may either waive the time limitation set forth therein or terminate the transaction by notice to Buyer of such termination. If this transaction is terminated as set forth herein, neither of the parties thereafter shall have any liability to the other except as expressly provided for in this Agreement. If Seller does not object to Buyer's non-satisfaction of said conditions, they shall be deemed satisfied as of the Closing.
- 8.03 Seller shall provide a partial reconveyance in a recordable format releasing the Property in its entirety from the existing Deed of Trust by and between Dale A. Van de Wetering and Seller.
9. Closing. For the purposes of this Agreement, the "Closing" shall be defined as the recordation of the Grant Deed in the Official Records of Los Angeles County ("Official Records") and the issuance of the Title Policy. The date upon which the Closing occurs is the "Closing Date". The parties agree to use their best efforts to effect the Closing no later than September 15, 2003 or the date occurring thirty (30) days after the purchase of the Property has been approved by the County of Los Angeles Board of Supervisors, whichever date later occurs. The parties may agree in writing to extensions of the Closing if such extensions appear to either party to be necessary. If the Closing does not occur within a reasonable period of time or by any date agreed to by the parties in writing, either party, who is not then in default, may cancel this Agreement by delivering written notice of such cancellation to the other party and to Escrow Holder before Closing occurs. Neither of the parties thereafter shall have any liability to the other except as expressly provided for in this Agreement. In the event the Closing does not occur prior to October 3, 2003, then this Agreement shall automatically terminate, unless the parties mutually agree to extend, and all monies paid to the Escrow Holder shall be returned to the party that initially paid such funds.
10. Possession. Buyer shall be entitled to the right of occupancy to the Property as of the Closing. On or before the Closing, Seller shall provide keys or other means to operate all locks and alarms on the Property. Any personal property remaining after the vacation of the Property by Seller will be deemed abandoned, subject to the easement and deed restrictions set forth herein.
11. This Paragraph intentionally omitted.
12. Maintenance of the Property. Between the Seller's execution of this Agreement and the Closing, Seller shall maintain the Property in good order, condition and repair.

13. Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested or by Express Mail or Federal Express to the following address:

To Buyer:

Consolidated Fire Protection District of Los Angeles County  
C/O Chief Administrative Office  
Real Estate Division  
222 South Hill Street, 3rd Floor  
Los Angeles, California 90012  
Attention: Carlos Brea

With a copy to:

Office of County Counsel  
Room 648 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012  
Attention: Thomas J. Faughnan  
Senior Deputy County Counsel

To Seller: Ms. Nina Bomar  
1321 East Hillcrest Drive  
Thousand Oaks, CA 91362

with a copy to:

Richard Scott  
Richard N. Scott, Inc.  
24955 Pacific Coast Highway  
Malibu, CA 90265

Notice shall be deemed given two (2) business days after deposit with a carrier as specified above. Notice of change of address shall be given by written notice in the manner detailed in this Section.

14. Brokers. Buyer and Seller hereby acknowledge and represent that there are no broker's commission or finder's fees due in connection with this transaction. Each party shall indemnify and hold the other party harmless from any claim of any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of either party with respect to the transaction contemplated hereunder.

15. Seller's Representations and Warranties. In consideration of Buyer entering into this Agreement and as an inducement to Buyer to purchase the Property, Seller makes the following representations and warranties, each of which is material and is being relied upon by Buyer and the truth and accuracy of which shall constitute a condition precedent to Buyer's obligations hereunder. Each of the following representations and warranties shall be deemed to have been remade as of the Closing.
- 15.01 Power. Seller has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.
- 15.02 Requisite Action. All requisite action has been taken by Seller in connection with entering into this Agreement and the instruments referenced herein, and, by the Closing, all such necessary action will have been taken to authorize the consummation of this transaction. By the Closing, no additional consent of any person or entity, judicial or administrative body, governmental authority or other party shall be required for Seller to consummate this transaction.
- 15.03 Individual Authority. The individuals executing this Agreement and the instruments referenced herein on behalf of Seller have the legal power, right and actual authority to bind Seller to the terms and conditions hereof and thereof.
- 15.04 Validity. This Agreement and all documents required hereby to be executed by Seller are and shall be valid, legally binding obligations of and enforceable against Seller in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws or similar laws or equitable principles affecting or limiting the right of contracting parties generally.
- 15.05 Violations. Seller has no present actual knowledge of any outstanding, uncured, written notice or citation from applicable governmental authorities of violation of any applicable codes, environmental zoning and land use laws, subdivision laws, and other applicable federal, state and local laws, regulations and ordinances, including, but not limited to, those relating to environmental conditions, hazardous materials or wastes, toxic materials or wastes or other similar materials or wastes.
- 15.06 Litigation. Seller has no present actual knowledge of any litigation pending or threatened against Seller on any basis therefor that arises out of the ownership of the Property or that might detrimentally affect the Property or adversely affect the ability of Seller to perform its obligations under this Agreement, other than the litigation referenced in Paragraph 33 herein.

16. Buyer's Representations and Warranties. In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Property, Buyer makes the following representations and warranties, each of which is material and is being relied upon by Seller and the truth and accuracy of which shall constitute a condition precedent to Seller's obligations hereunder. Each of the following representations and warranties shall be deemed to have been remade as of the Closing.
- 16.01 Power. Buyer has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.
- 16.02 Requisite Action. All requisite action has been taken by Buyer in connection with entering into this Agreement and the instruments referenced herein, and, by the Closing, all such necessary action will have been taken to authorize the consummation of this transaction. By the Closing, no additional consent of any person or entity, judicial or administrative body, governmental authority or other party shall be required for Buyer to consummate this transaction.
- 16.03 Individual Authority. The individuals executing this Agreement and the instruments referenced herein on behalf of Buyer have the legal power, right and actual authority to bind Buyer to the terms and conditions hereof and thereof.
- 16.04 Validity. This Agreement and all documents required hereby to be executed by Buyer are and shall be valid, legally binding obligations of and enforceable against Buyer in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws or similar laws or equitable principles affecting or limiting the right of contracting parties generally.
17. Inspection of the Site.
- 17.01 Seller agrees to provide Buyer and/or Buyer's employees, representatives and agents with access to the Property, upon reasonable notice, to conduct any inspections Buyer deems appropriate at any time prior to the Closing.
- 17.02 Buyer shall not engage in any destructive testing during any inspection of the Property without the written consent of Seller.
- 17.03 Buyer hereby covenants and agrees to indemnify and hold Seller harmless from any loss, cost or expense (including attorney's fees) relating to or arising out of Buyer's inspections of the Property.

18. Condition of Property. Buyer acknowledges that neither Seller, its agents, employees nor its other representatives have made any representations or warranties to Buyer regarding any matter relating to the Property, except as set forth in Section 15, including but not limited to the Property's condition, fitness, environmental conditions, adequacy of design, suitability for a particular purpose, the effect of zoning and other applicable laws, regulations and governmental rulings, or the accuracy, completeness or relevance of any materials or information regarding the Property provided by Seller. Buyer agrees that Buyer is relying exclusively on Buyer's own independent investigation of all such matters.
19. Indemnity. Seller shall defend, indemnify, and hold Buyer and its elected and appointed officers, agents and employees free and harmless from and against any and all liabilities, damages, claims, costs and expenses (including without limitation, attorneys' fees, legal expenses and consultants' fees) related to or arising in whole or in part from the removal, eviction, vacation, or relocation of any occupant(s) of the Property, residing thereat at any time prior to the Closing.
20. Survival of Covenants. The covenants, indemnities, agreements, representations and warranties made herein are intended to survive the Closing and recordation and delivery of the Grant Deed conveying the Property to Buyer.
21. Required Actions of Buyer and Seller. Buyer and Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions hereof in order to consummate this transaction and shall use their best efforts to effect the Closing in accordance with the provisions hereof.
22. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and no addition or modification of any term or provision shall be effective unless set forth in writing, signed by both Seller and Buyer.
23. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same Agreement.
24. California Law. This Agreement shall be construed in accordance with the laws of the State of California.
25. Waivers. No waiver by either party of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by either party of the same or any other provision.
26. Captions. The captions and the section and subsection numbers appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Agreement nor in any way affect this Agreement.

27. Interpretation. Unless the context of this Agreement clearly requires otherwise, (i) the plural and singular numbers shall be deemed to include the other; (ii) the masculine, feminine and neuter genders shall be deemed to include the others; (iii) "or" is not exclusive; and (iv) "includes" and "including" are not limiting.
28. Severability. This Agreement shall not be deemed severable. In the event any portion of this Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, this Agreement shall be void and of no further effect.
29. Delegation of Authority. Buyer hereby delegates to its Chief Administrative Officer or his designee, the authority to issue any and all approvals required by this Agreement and to execute any and all instruments necessary to consummate this transaction.
30. Binding Effect. The provisions of this Agreement shall be binding upon the parties hereto and their respective successors-in-interest.
31. No Presumption Re: Drafter. The parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the parties and their attorneys, and this Agreement reflects their mutual agreement regarding the same. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.
32. Assistance of Counsel. Each party hereto either had the assistance of counsel or had counsel available to it, in the negotiation for, and the execution of, this Agreement, and all related documents.
33. Eminent Domain. Buyer has commenced an eminent domain action to acquire the Property entitled Consolidated Fire Protection District of Los Angeles County v. Nina L. Bomar, et. al. Los Angeles County Superior Court Case No. 288618. Seller and Buyer acknowledge that this is a negotiated settlement in lieu of eminent domain action and that Buyer shall dismiss said eminent domain action promptly after the Closing. This settlement is intended to resolve and encompass all claims and/or entitlements of Seller for compensation and/or damages in connection with the Buyer's acquisition of the Property and construction and use of the public project for which the Property is being acquired, which could have been asserted by Seller in said eminent domain action. The provisions in this Section shall survive the Close of Escrow.



34. Deed Restrictions. For as long as the leach field is in use, and provided Seller's use does not interfere with Buyers use and quiet enjoyment of the adjacent Fire Station, a) Seller reserves the right to use the Property for the purpose of corralling animals, animal grazing or gardening and to erect fencing for these purposes; provided, however, Seller shall not have any right to erect structures on the Property; provided further, Seller agrees to be responsible for brush clearance on the Property; b) In the event Buyer's periodic maintenance of the leach field results in any improvements (including but not limited to landscaping, driveways, fencing and water troughs) on the Property being disturbed, then Seller shall be solely responsible for restoring said improvements including the costs thereof.; c) for as long as the Property is used for a leach field, Buyer shall not build or permit to be built any structures, including fencing, or store any vehicles on the Property or disturb the existing Oak tree in any way or otherwise interfere with the drip line of said Oak tree, except to the extent that Buyer needs to trim the Oak tree or remove it due to disease or blight which removal or trimming shall be in conformance with generally accepted standards of tree care; d) Buyer agrees that except in an emergency situation, in the event Buyer needs to perform maintenance on the leach field installed upon the Property, Buyer shall first provide Seller with forty eight (48) hours prior verbal notice of its intent to perform said maintenance. e) in the event municipal sewer service is available along Decker Road and such service extends to the Fire Station located adjacent to the Property and the Buyer elects to hook into said sewer service, then the Buyer's interest in the Property shall revert to the Seller upon payment by Seller of the then fair market value of the Property conveyed herein. The parties shall have thirty (30) days after the date the Seller receives the Buyer's written notice of its confirmation that it connected to the municipal sewer (the "Connection Date") to agree on the fair market value of the Property. If they so agree in writing, the Seller shall pay the fair market value to Buyer within sixty (60) days of the writing establishing the agreed upon fair market value. The Chief Administrative Officer shall be authorized to make the agreement on behalf of Buyer. If the parties are unable to agree on the fair market value of the Property within said thirty (30) day period, then, within forty (40) days of the Connection Date, each party at its own cost and expense and by giving notice to the other party shall retain a real estate appraiser with at least five (5) years' full-time commercial appraisal experience in the area in which the Property is located to determine its fair market value. For purposes of determining fair market value the Property shall be appraised without any consideration, positive or negative, attributed towards the easement restrictions placed upon the Property pursuant to Sections a) and c) above. The two (2) appraisers shall promptly meet and attempt to agree upon a single sum as the fair market value, which they shall report in writing to both parties. If they are successful in reaching the sum, they shall prepare a joint written appraisal and Seller shall pay such sum to Buyer within sixty (60) days of the Buyer's receipt of the report. If the two (2) appraisers are unsuccessful in reaching agreement on the fair market value within seventy (70) days of the Connection Date, then each appraiser shall prepare their own written appraisal and they shall agree upon and select a third appraiser within eighty (80) days of the Connection Date. The responsibility for hiring the third appraiser shall be shared equally between Seller and Buyer. However, the actual costs shall be assessed against

whichever party, Buyer or Seller, original determination of value is the furthest in price from the value determined by the third appraisal, The third appraiser shall meet at least the same qualifications as the other two (2) appraisers. The third appraiser shall make their own written appraisal of the fair market value of the Property. Whichever of the other two (2) appraisals is closest to the third appraisal shall be the final determination of fair market value (the "Final Value") and represent the prevailing appraisal. Seller must then pay to Buyer within thirty (30) days of the receipt of the third appraisal, a sum equal to the Final Value. In the event Seller does not pay the Buyer in full for the Property within the time frames provided above, then (1) this reversionary right shall terminate and; (2) Seller shall have no further right to purchase the Property; and (3) the restrictions outlined in a, b, c and d above shall cease to be enforceable.

35. Buyer Responsibilities After the Close of Escrow.

35.01 Buyer represents that the time frame to complete the construction of the leach field on the Property is about ninety (90) days and Buyer shall expeditiously pursue the completion within this time frame. However, Seller acknowledges that this is merely a representation of Buyer's best faith estimate of the construction time frame and Buyer can not be held liable for any loss experienced by Seller in the event this time frame increases or decreases over the course of actual construction. Additionally, Buyer will endeavor to keep Seller apprised of its progress in terms of selection of contractor, application for building permits, commencement of construction etc.

IN WITNESS WHEREOF, Seller has executed this Agreement or caused it to be duly executed and Buyer by order of its Board of Supervisors, has caused this Agreement to be executed on its behalf by the Chair of said Board and attested by the Clerk the day, month, and year first above written.

Seller:

**NINA BOMAR**

\_\_\_\_\_  
Nina Bomar, Owner

Buyer:

**CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY**

ATTEST:

VIOLET VARONA-LUKENS

Executive Officer-Clerk of The Board of Supervisors

By : \_\_\_\_\_  
Chair, Board of Supervisors

By \_\_\_\_\_  
Deputy

\_\_\_\_\_  
APPROVED AS TO FORM

LLOYD W. PELLMAN  
County Counsel

By: \_\_\_\_\_  
Deputy

ATTACHED EXHIBITS	A.	LEGAL DESCRIPTION
	B.	GRANT DEED
	C.	EASEMENT DOCUMENT

EXHIBIT B

RECORDING REQUESTED BY & MAIL TO

County of Los Angeles  
Real Estate Division  
222 South Hill Street, 3<sup>rd</sup> Floor  
Los Angeles, CA 90012

Space above this line for Recorder's use \_\_\_\_\_

TAX PARCEL: 4472-011-003 (portion)

DOCUMENTARY TRANSFER TAX \$ \_\_\_\_\_  
\_\_\_ COMPUTED ON FULL VALUE OF PROPERTY CONVEYED,  
\_\_\_ OR COMPUTED ON FULL VALUE LESS LIENS AND  
ENCUMBRANCES REMAINING, AT TIME OF SALE.

\_\_\_\_\_  
Signature of Declarant or Agent determining tax.

\_\_\_\_\_  
Firm Name

# GRANT DEED

**NINA BOMAR, an unmarried women**, (the Seller"), for valuable consideration receipt of which is hereby acknowledged does hereby surrender and grant to:

**CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY**

(the "Buyer") the described real property located in unincorporated Malibu, County of Los Angeles, State of California further described on Exhibit "A" attached hereto and incorporated herein.

SUBJECT TO AND BUYER TO ASSUME THE RIGHTS AND RESTRICTIONS AS SPECIFIED IN EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN.

Dated \_\_\_\_\_

\_\_\_\_\_  
Nina Bomar

EXHIBIT A

LEGAL DESCRIPTION OF CENTERLINE

To be inserted

# EXHIBIT A

M02D182313

File with: **FIRE STATION 72 SITE (2)**  
@ 1832 DECKER ROAD  
A.P.N. 4472-011-003  
T.G. 626 (E2)  
I.M. 129-017  
Third District

## LEGAL DESCRIPTION

### PARCEL NO. 2-1SS

That portion of that certain parcel of land in the southwest quarter of the southwest quarter of Section 16, T. 1 S., R. 19 W., S.B.M., described in deed to NINA L. BOMAR, recorded on May 12, 1999, as Document No. 99-0859956, of Official Records, in the office of the Recorder of the County of Los Angeles, within the following described boundaries:

Beginning at the intersection of the southerly line of that certain parcel of land described in the deed to the County of Los Angeles, recorded on March 28, 1932, as Instrument No. 513, in Book 11538, Page 64, of said Official Records, and the easterly line of the southwest quarter of the southwest quarter of said section; thence South  $0^{\circ} 03' 35''$  East along said easterly line, a distance of 180.00 feet; thence South  $89^{\circ} 56' 25''$  West 88.00 feet; thence North  $0^{\circ} 03' 35''$  West 55.45 feet; thence North  $41^{\circ} 24' 06''$  West 116.36 feet; thence South  $89^{\circ} 56' 25''$  West 75.39 feet to the easterly sideline of that certain 40-foot strip of land for Decker Road as described in deed to said County recorded on April 29, 1918, as Instrument No. 95, in Book 6682, Page 1, of Deeds, in the office of said Recorder; thence northerly along said easterly sideline to said southerly line; thence easterly along said southerly line to the point of beginning.

Containing: 24586± square feet.

APPROVED AS TO DESCRIPTION

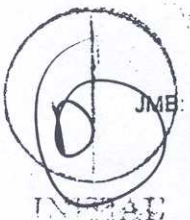
March 4, 2002

COUNTY OF LOS ANGELES

By

[Signature]  
SUPERVISING CADASTRAL ENGINEER II

Mapping and Property Management Division



JME: d:\legals\fire station 72.wpd

## EXHIBIT B DEED RESTRICTIONS

### SUBJECT TO AND BUYER TO ASSUME:

- a. All taxes, interest, penalties and assessments of record, if any.
- b. Covenants, conditions, restrictions, reservations, easements, rights, and rights-of-way of record, if any.
- c. Seller reserves the right to use the Property for the purpose of corralling animals, animal grazing or gardening and to erect fencing for these purposes; provided, however, Seller shall not have any right to erect structures on the Property; provided further, Seller agrees to be responsible for brush clearance on the Property. In the event Buyer's periodic maintenance of the leach field results in any improvements (including but not limited to landscaping, driveways, fencing and water troughs) on the Property being disturbed, then Seller shall be solely responsible for restoring said improvements including the costs thereof.
- d. For as long as the Property is used for a leach field, Buyer shall not build or permit to be built any structures, including fencing, or store any vehicles on the Property or disturb the existing Oak tree in any way or otherwise interfere with the drip line of said Oak tree, except to the extent that Buyer needs to trim the Oak tree or remove it due to disease or blight which removal or trimming shall be in conformance with generally accepted standards of tree care.
- e. Buyer agrees that except in an emergency situation, in the event Buyer needs to perform maintenance on the leach field installed upon the Property, Buyer shall first provide Seller with forty eight (48) hours prior verbal notice of its intent to perform said maintenance.
- f. In the event municipal sewer service is available along Decker Road and such service extends to the Fire Station located adjacent to the Property and the Buyer elects to hook into said sewer service, then the Buyer's interest in the Property shall revert to the Seller upon payment by Seller of the then fair market value of the Property conveyed herein. The parties shall have thirty (30) days after the date the Seller receives the Buyer's written notice of its confirmation that it connected to the municipal sewer (the "Connection Date") to agree on the fair market value of the Property. If they so agree in writing, the Seller shall pay the fair market value to Buyer within sixty (60) days of the writing establishing the agreed upon fair market value. The Chief Administrative Officer shall be authorized to make the agreement on behalf of Buyer. If the parties are unable to agree on the fair market value of the Property within said thirty (30) day period, then, within forty (40) days of the Connection Date, each party at its own cost and expense and by giving notice to the other party shall retain a real estate appraiser with at least five (5) years' full-time commercial appraisal experience in the area in which the Property is located to determine its fair market value. For purposes of determining fair market value the Property shall be appraised without any consideration, positive or negative, attributed towards the easement restrictions placed upon the Property pursuant to Sections c and d above. The two (2) appraisers shall promptly meet and attempt to agree upon a single sum as the fair market value, which they shall report in writing to both parties. If they are successful in reaching the sum, they shall prepare a joint written appraisal and Seller shall pay such sum to Buyer within sixty (60) days of the Buyer's receipt of the report. If the two (2) appraisers are unsuccessful in reaching agreement on the fair market value within seventy (70) days of the Connection Date, then each appraiser shall prepare their own written appraisal and they shall agree upon and select a third appraiser within eighty (80) days of the Connection Date. The responsibility for hiring the third appraiser shall be shared equally between Seller and Buyer. However, the actual costs shall be assessed against whichever party, Buyer or Seller, original determination of value is the furthest in price from the value determined by the third appraisal, and the third appraiser shall meet at least the same qualifications as the other two (2) appraisers. The third appraiser shall make their own written appraisal of the fair market value of the Property. Whichever of the other two (2) appraisals is closest to the third appraisal shall be the final determination of fair market value (the "Final Value") and represent the prevailing appraisal. Seller must then pay to Buyer within thirty (30) days of the receipt of the third appraisal, a sum equal to the Final Value. In the event Seller does not pay the Buyer in full for the Property within the time frames provided above, then (1) this reversionary right shall terminate and; (2) Seller shall have no further right to purchase the Property; and (3) the restrictions outlined in c, d, e and f above shall cease to be enforceable.

RECORDING REQUESTED BY & MAIL TO

Ms. Nina Bomar  
1321 East Hillcrest Drive  
Thousand Oaks, CA 91362

Space above this line for Recorder's use

THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE GOVERNMENT CODE

THIS DOCUMENT IS EXEMPT FROM DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11922 OF THE REVENUE AND TAXATION CODE

TAX PARCELS: 4472-011-003 (portion)

## EASEMENT

The **CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY**, a **special district**, hereinafter referred to as "District", for valuable consideration receipt of which is hereby acknowledged does hereby grant to **NINA BOMAR, an unmarried woman**, hereinafter referred to as "Grantee", an exclusive twenty (20) foot easement for the purposes of, ingress, egress and underground utilities including grading, constructing retaining walls not to exceed 2 feet in height, paving and maintenance of same, and no other purposes, upon a defined line located on real property in unincorporated Malibu, County of Los Angeles, State of California, said defined line described in Exhibit "A", hereinafter referred to as the "Property", which is attached hereto and by this reference made a part thereof.

Subject to all matters of record and to the following reservations and conditions which Grantee by the acceptance of this easement document agrees to keep and perform viz:

- a. Covenants, conditions, restrictions, reservations, easements, rights, and rights-of-way of record, if any.
- b. Grantee agrees that it will indemnify and save harmless District, its officers, agents, and/or employees from any and all liability, loss or damage to which District, its officers, agents and/or employees may be subjected as the result of any act or omission by Grantee, or her agents or employees, arising out of the exercise by Grantee, or her agents or employees, of any of the rights granted to it by this instrument.
- c. It is expressly understood that the District will not be called upon to construct, repair, maintain, or reconstruct any structure or improvement to be erected or constructed pursuant to this Easement.
- d. The provisions and conditions contained in the Easement shall be binding upon Grantee and District, their successors and assigns.
- e. Subject to the deed restrictions set forth in the Grant Deed, which conveyed the Property which is the subject of this easement from Grantee to District, the District reserves the right to use the Property for any and all purposes consistent with enjoyment of the easement herein granted.

Dated \_\_\_\_\_

CONSOLIDATE FIRE PROTECTION DISTRICT OF  
LOS ANGELES COUNTY

COLA LOG NO. \_\_\_\_\_

By \_\_\_\_\_

Yvonne Brathwaite Burke  
Chair, Board of Supervisors



STATE OF CALIFORNIA) )  
 ) ss.  
COUNTY OF LOS ANGELES )

On January 6, 1987, the Board of Supervisors for the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts adopted a resolution pursuant to Section 25103 of the Government Code which authorized the use of facsimile signatures of the Chairperson of the Board on all papers, documents, or instruments requiring said signature.

The undersigned hereby certifies that on this \_\_\_\_\_ day of \_\_\_\_\_, 2003, the facsimile signature of \_\_\_\_\_, Chair of the Board of Supervisors of the County of Los Angeles was affixed hereto as the official execution of this document. The undersigned further certifies that on this date, a copy of the document was delivered to the Chairperson of the Board of Supervisors of the County of Los Angeles.

In witness whereof, I have also hereunto set my hand and affixed my official seal the day and year above written.

VIOLET VARONA-LUKENS, Executive Officer  
Board of Supervisors, County of Los Angeles

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

LLOYD W. PELLMAN  
County Counsel

By \_\_\_\_\_  
Deputy

(deed).1

**EXHIBIT "A"**  
(LEGAL DESCRIPTION)  
**DRIVEWAY EASEMENT**

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SECTION 16, TOWNSHIP 1 SOUTH, RANGE 19 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED TO NINA L. BOMAR, RECORDED ON MAY 12, 1999 AS DOCUMENT NO. 99-0859956 OF OFFICIAL RECORDS, IN THE OFFICE OF THE RECORDER OF SAID COUNTY, INCLUDED WITHIN A STRIP OF LAND, 10 FEET IN WIDTH, THE CENTERLINE OF SAID STRIP DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED TO THE COUNTY OF LOS ANGELES, RECORDED ON MARCH 28, 1932, AS INSTRUMENT NO. 513, IN BOOK 11538, PAGE 64, OF OFFICIAL RECORDS, WITH THE EASTERLY LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE, SOUTH 00°03'35" EAST, ALONG SAID EASTERLY LINE, A DISTANCE OF 180.00 FEET; THENCE, SOUTH 89°56'25" WEST, 69.50 FEET TO THE TRUE POINT OF BEGINNING; THENCE, NORTH 00°03'35" WEST, 21.38 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 137.00 FEET; THENCE, NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°49'00", A DISTANCE OF 90.42 FEET; THENCE, TANGENT FROM SAID CURVE, NORTH 37°52'35" WEST, 21.74 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 100.00 FEET; THENCE, NORTHWESTERLY AND WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 52°11'00" A DISTANCE OF 91.08 FEET; THENCE, SOUTH 89°56'25" WEST, 43.26 FEET TO THE EASTERLY SIDELINE OF THAT CERTAIN 40-FOOT STRIP OF LAND FOR DECKER ROAD AS DESCRIBED IN THE DEED TO LOS ANGELES COUNTY, RECORDED ON APRIL 29, 1918 AS INSTRUMENT NO. 95, IN BOOK 6682, PAGE 1 OF DEEDS, IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

THE SIDELINES OF SAID STRIP OF LAND SHALL BE SHORTENED OR LENGTHENED TO TERMINATE AT THE EASTERLY SIDELINE OF SAID DECKER ROAD.

CONTAINING 2,666 SQUARE FEET, MORE OR LESS.

ALSO AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.



PREPARED BY: THE KEITH COMPANIES  
UNDER THE DIRECTION OF:

*Ray E. Mansur*  
RAY E. MANSUR, PLS 7185  
REGISTRATION EXPIRES 12/31/03

September 12, 2003  
J.N. 13970.02.000

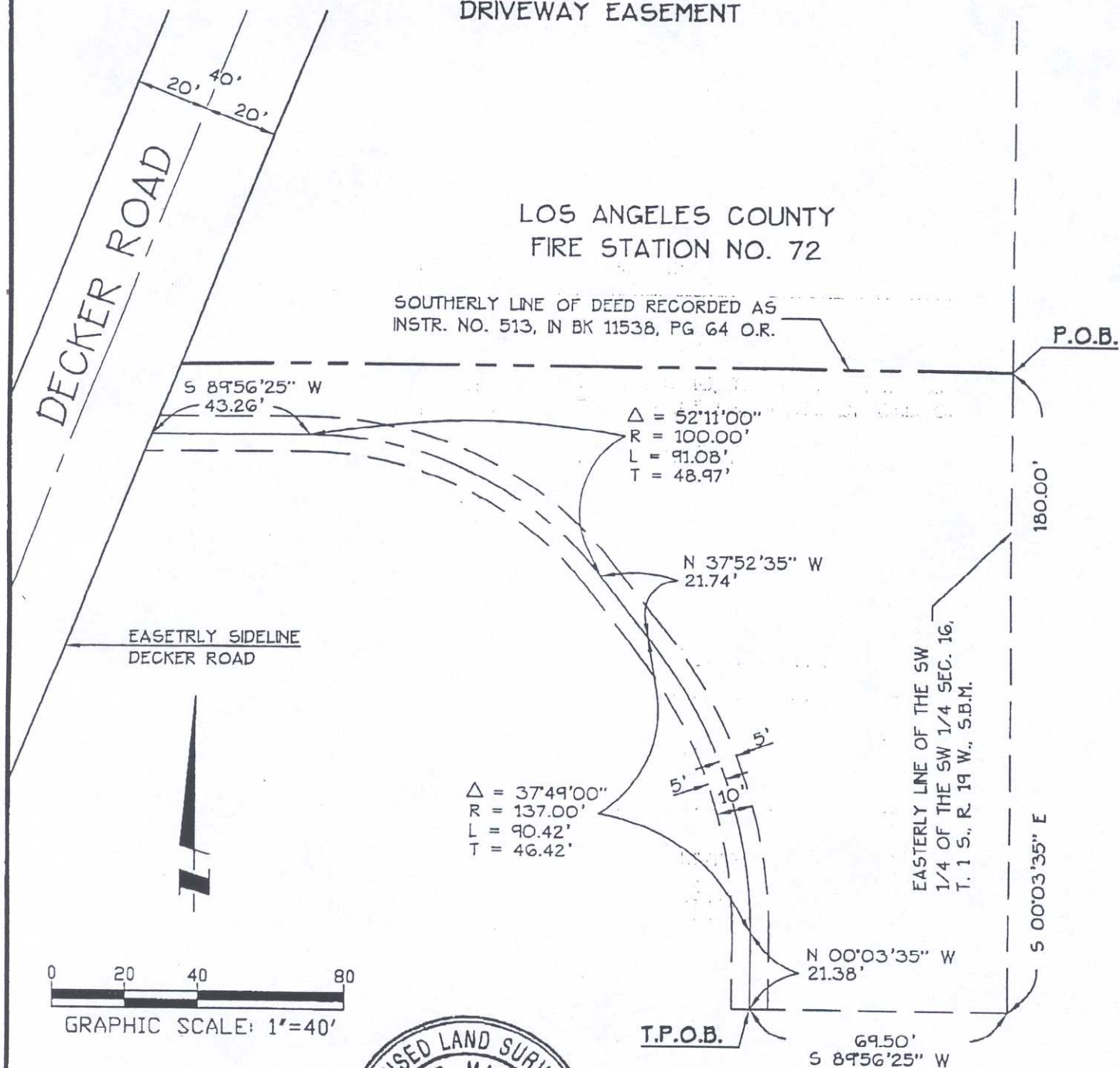
V:\Projects\13970.00\surmap\DOC\Centerline Legal Description.doc



## EXHIBIT "B"

BEING A PORTION OF THE SW 1/4 OF SEC 16, T. 1 S., R. 19 W., S.B.M.  
IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

## DRIVEWAY EASEMENT



RAY E. MANSUR, PLS 7185  
REGISTRATION EXPIRES 12/31/03

Project:	L.A. CO. FIRE STATION NO. 72
Description:	CENTERLINE DRIVEWAY EASEMENT
The Keith Companies	
<b>TKC</b> 19 Technology Drive, Irvine, CA 92618 (949) 923-6000	
Job No.:	13970.02.000
Date:	09/12/03